

REMARKS

Claims 1, 3-5, 8-17, and 19-25 are currently pending in this application. Claims 1, 3, and 17 have been amended and new claim 25 has been added. Support for new claim 25 can be found in the specification, for example at page 5 line 2, and the R group definition on pages 3-5. No new matter is believed to have been added by virtue of these amendments.

Reconsideration and withdrawal of the rejections of the pending claims in view of the amendments made above and the remarks to follow is respectfully requested.

35 U.S.C. § 112 Rejections

Claims 1, 3-5, 9, 10, 13-17 and 20-24 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as invention. The claims have been amended to address the concerns noted by the Examiner, and allowance is respectfully requested.

Claims 1, 3-5, 8-17, and 19-24 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly being unsupported by the specification. Applicant believes that the claims, as amended, are fully supported by the present specification, the provisional application filed on 11 August 1995, and the PCT application filed on 9 August 1996. "There is a strong presumption that an adequate written description of the claimed invention is present when the application is filed." *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976) See MPEP 2163. Applicant believes that the specification provides support for the above claims, and allowance is respectfully requested.

Claims 1, 3-5, 8-17, and 19-24 were also rejected under 35 U.S.C. § 112, first paragraph, on the basis that the disclosed substituent, C=X, where X is S or O, was not disclosed in the specification. The rejection is respectfully traversed.

The substituent and/or functional group X is supported in the present specification. On page 7, the Applicant discloses X as follows: "X represents S and/or O" (Scheme III, page 7). This disclosure is adequate to form the basis of the above claims.

Additionally, X is disclosed in the PCT application filed 8 August 1996 (PCT/IB96/00987). The PCT application discloses X as follows: "X represents a substituent comprised of any number and any combination of the elements N, S, Si, O, Cl, Br, I, F), page 4." Further, X is supported in the provisional application filed 11 August 1995 (08/817,230) as an alternative procedure wherein R6 is equal to the group (O, S, N, or P), page 52. X is supported in the present specification as: "X represents S and/or O" Scheme III, page 7.

In light of the specific support found in the present and priority applications, reconsideration and allowance of the rejection of claims 1, 3-5, 8-17, and 19-24 is respectfully requested.

Claims 1, 3-5, 8-17, and 19-24 also stand rejected under 35 U.S.C. § 112, second paragraph, following the removal of the "R" substituent/functional group. In the previous Office Action, dated 31 October 2002, claims containing the "R" substituent and/or functional group were rejected as unsupported. The "R" substituent/functional group has been re-incorporated into the above recited claims. The Applicant respectfully submits that the R substituent and/or functional group is disclosed and fully supported by the currently pending, the PCT, and the provisional applications for at least the following reasons:

1. The "R" substituent/group is discussed in the present specification on pages 3, 4, and 5. It is defined under the diagrams of Scheme I on page 3, Scheme III on page 7, Scheme IV on page 8, Scheme V on page 9, Schemes VI and VII on page 10.
2. The "R" substituent/group is defined in the PCT application filed 8 August 1996 (PCT/IB96/00987). Therein, R is defined as follows: "(R represents a substituent

comprised of any number and any combination of the elements H, C, N, S, Si, O, Cl, Br, I, F)" on page 4.

3. R is additionally supported by the provisional application filed 11 August 1995 (08/817,230) as an alternative procedure wherein R6 is equal to the group (O, S., N, or P), page 52.

In light of the specific support found in the present, PCT, and provisional applications, Applicant respectfully seeks allowance of the claims.

35 U.S.C. § 102 Rejections

Claims 1, 3-5, 8-17, and 19-24 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Wood et al., Tetrahedron Letters, 1996. Applicant respectfully disagrees. It is believed that the pending claims are fully supported by the provisional application, filed 11 August 1995. Applicant is therefore entitled to priority as of this date pursuant to 35 U.S.C. 119(e). Therefore, the effective filing date of the Applicant's application is prior to the date of the reference and the reference is not available as prior art under 35 U.S.C. § 102(b) and/or (e). Reconsideration and withdrawal of the rejection of claims 1, 3-5, 8-17, and 19-24 as allegedly being anticipated by Wood et al. is respectfully requested.

Claims 1, 3-5, 8-17, and 19-24 also stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Wood et al., Journal of the American Chemical Society, 1995. Applicant respectfully disagrees. It is believed that the pending claims are fully supported by the present specification and the provisional application filed, 11 August 1995. Applicant is therefore entitled to priority as of this date pursuant to 35 U.S.C. 119(e). Further, the claims are supported by the PCT application filed 9 August 1996 pursuant to 35 U.S.C. 371. The cited reference at issue, *Total Synthesis of (+) – and (-)-K252a*, was published in the *Journal of the American Chemical Society* on October 18, 1995. In support of this, the Applicant has submitted herewith the October 18, 1995 Table of Contents Vol. 117, No. 41 (Attached). Thus, the reference is not available under 35 U.S.C. § 102(b) because it was not published more than one year prior to the earliest

effective filing date of the instant application. Furthermore, the entire text of the Wood et al. reference is contained in Applicant's provisional patent application, to which this application claims priority.

Furthermore, neither of the above Wood, et al. citations would be available as prior art under 102(a). Both inventors, John Wood and Brian Stoltz, were authors of the cited publications. Accordingly, the publications are not available as 102(a) references against the pending application.

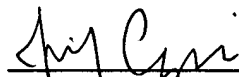
In light of the above amendments and remarks, Applicant believes that the prior art rejections are overcome and respectfully seeks allowance of the claims.

CONCLUSION

Applicant believes that the foregoing is a full and complete response to the Office Action of record. Accordingly, an early and favorable reconsideration of the rejection of all of the claims is requested. Applicants believe that the above claims are now in condition for allowance. An indication of allowability and an early Notice of Allowance is respectfully requested.

If Examiner feels that a telephonic interview would be helpful, she is requested to call the undersigned at (203) 575-2648.

Respectfully submitted,



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